

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**VICTOR APODACA,**

**Plaintiff,**

**v.**

**No. 13-cv-0113 JB/SMV**

**STATE OF N.M. ADULT  
PROB. & PAROLE, et al.,**

**Defendants.**

**ORDER**

THIS MATTER is before the Court on Plaintiff's Motion to Submit Evidence [Doc. 25], filed on March 10, 2014, and on his letter to the Court [Doc. 31], filed on April 28, 2014. The Court will deny Plaintiff's Motion to Submit Evidence [Doc. 25] without prejudice.

Plaintiff has filed a three-part complaint, alleging violations of his Fourth and Eighth Amendment rights under 42 U.S.C. § 1983. [Docs. 1, 3, 9]. On March 25, 2014, Plaintiff moved for leave to submit 66 pages of evidence into the record. [Doc. 25]. Although the motion was docketed, the 66-pages of documents were apparently returned to Plaintiff by the Clerk. *See* [Doc. 31]. Subsequently, on April 28, 2014, Plaintiff submitted a letter asking why his evidence had been returned to him and asking how to obtain court records, presumably from state court. *Id.*

The Court will deny Plaintiff's motion to submit evidence into the record at this time. [Doc. 25]. With respect to Plaintiff's Fourth Amendment claims, the Court has ordered Defendants Hatley and Pautler to submit a *Martinez* report. [Doc. 34]. Plaintiff may respond to the *Martinez* report no later than October 29, 2014, *see id.*, and he may include evidence that is

relevant to the claims and defenses, as long as it is not duplicative of the evidence contained in the *Martinez* report and as long as it does not exceed the 50-page limit imposed by D.N.M.LR-Civ. 10.5.

No evidence relating to Plaintiff's remaining claims for alleged Eighth Amendment violations (arising from denial of medical treatment) is needed at this time. The United States Marshals Service has been ordered to personally serve Defendants Hillis and Lueras. Thus, no *Martinez* report has been ordered at this time. Once Defendants Hillis and Lueras appear, the Court will determine whether a *Martinez* report—or any evidence from Plaintiff—is required.

As to Plaintiff's final request for instruction on how to obtain records from another court, the Court is unable to assist Plaintiff other than to direct him to that court to make his request.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that Plaintiff's Motion to Submit Evidence [Doc. 25] is **DENIED** without prejudice.

**IT IS SO ORDERED.**

  
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**STEPHAN M. VIDMAR**  
**United States Magistrate Judge**